

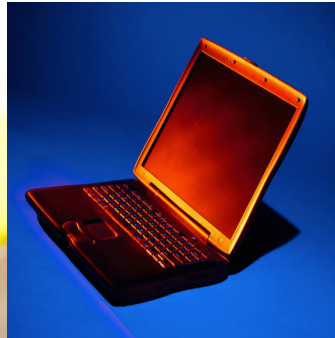
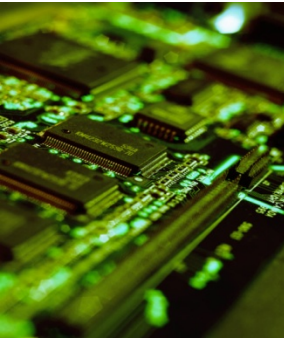


Working with Universities on Export-Controlled Technology

Jamie M. Haberichter
Export Control and Trade Sanctions Specialist
Office of the Vice President for
Research and Graduate Studies
Michigan State University
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Presentation Overview

- What are export controls?
- What is an export?
- What are trade sanctions?
- What is EAR? ITAR? OFAC?
- The MSU process





What are export controls?

- A group of laws and regulations that restrict ability to freely send or share certain goods, technology or information outside the U.S. or with non-U.S. nationals inside the U.S.
- These laws are intended to promote U.S. national security and other policy goals
- They have broad extra-territorial reach
- Violations carry significant penalties, fines and both University and individual liability

What are ITAR and EAR?

Export controls are federal laws that regulate the export of:

- technology and data relating to military applications listed on the U.S. Munitions List (**ITAR**) – enforcement agency – **Department of State**

https://www.pmddtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf

AND

- “dual use” technologies relating to items listed on the Commerce Control List (**EAR**) – enforcement agency – **Department of Commerce**

<http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

Examples of controlled goods/technology:

- Toxicological agents
- Nuclear materials and technology
- Lasers and Sensors
- Night vision equipment
- Arms and ammunition
- Semiconductors and microprocessors
- Telecommunications
- Missile technology
- Navigation and avionics
- Marine vessels
- GPS technology
- Weapons and Ammunition
- Countermeasure technology on controlled goods
- Body armor and protective gear
- Fingerprint and identification retrieval
- Mass Spectrometers
- High strength materials

What constitutes an export?

Any release of controlled technology, data, software or other item to a foreign national. Such release is **deemed** to be an export to the home country or countries of the foreign national, even if the person is currently residing in the United States. This rule does not apply to persons lawfully admitted for permanent residence in the United States.

(Hint: A restaurant conversation in the U.S. that transfers controlled information to a foreign national constitutes an export.)

What are trade sanctions?

- The Office of Foreign Assets Control ("OFAC") of the **U.S. Department of the Treasury** enforces economic and trade sanctions based on foreign policy, economic and national security goals. OFAC blocks interaction with terrorists, international narcotics traffickers and weapons violators, among others, as well as denying dealings with certain foreign entities.

(Partial list of sanctioned countries: Balkans, Burma, Cuba, Iran, North Korea, Sudan, Syria, Ukraine, Zimbabwe)

Trade Sanctions

- The U.S. also prohibits dealing with Specially Designated Nationals - people and entities- SDNs, not based on their nationality
- Sanctions are directed at countries/governments and individuals (SDNs), and prohibit the following:
 - Dealings with Sanctioned Countries, Governments or SDNs
 - Negotiating contracts
 - Sending/receiving payments through sanctioned banks, or with Specially Designated Nationals
 - Importing/exporting goods or services from/to Sanctioned Countries
- Compliance requires screening of parties and review of activities.

Why is it important to be aware of these laws?

Violations of EC&TS can result in personal & institutional liability & criminal penalties:

- **individual** and/or **institutional** fines and/or
- **individual** incarceration
- Shows due diligence by MSU regarding compliance

Applicability

These laws apply to **all research activities** whether or not there is a specific citation to the regulations in the grant or contract award document governing the project, and whether or not the project is grant funded.

These laws also apply to export-controlled information or technology shared with MSU by personnel outside the University (such as items or data shared via a **material transfer or confidential disclosure agreement**).

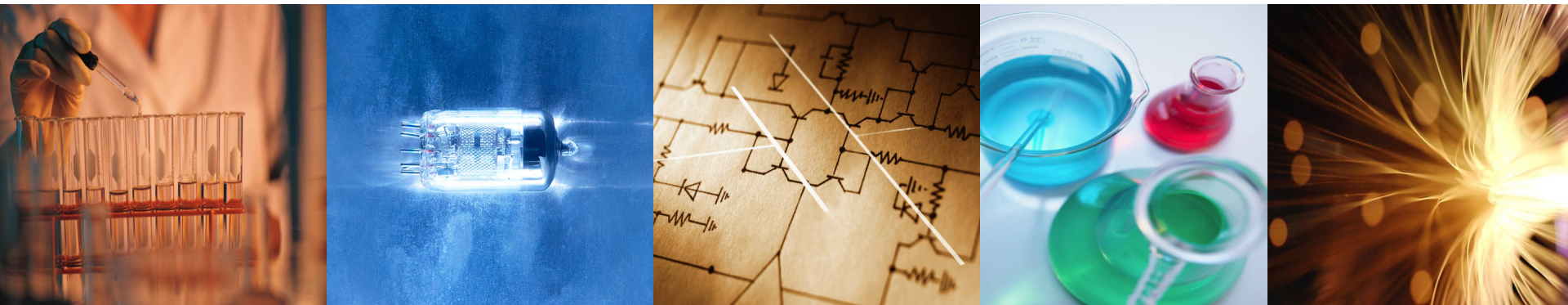


Licenses?

- In certain situations, the University may elect to apply for a license for export but:
 - They take time (months)
 - They can be expensive
 - They can be turned down

Fundamental Research

Fundamental research is basic or applied research at an accredited institution of higher learning in the U.S. where the resulting information is not restricted in the form or content of its release to the public and is ordinarily published and shared broadly in the scientific community.





Publication & Fundamental Research

The fundamental research exclusion (FRE) does not in general extend to the for-profit sector (export controls sometimes flow down to a university as a subcontractor when the for profit, as prime contractor, is required to accept the controls).

The fundamental research exclusion does not extend to research performed outside the University even if the research is fundamental at MSU.



What is an access control plan?

- Protects controlled technology/data for projects not under FRE.
- May require keeping equipment, computers and/or data in secure areas, other security measures as needed to restrict access.
- ACPs are prepared by ECTS and reviewed periodically.



Contact Export Control and Trade Sanctions at:

- Phone: (517) 432-4499
- Email: export@msu.edu
- Website: <http://exportcontrols.msu.edu>
- Address: 249 Administration Building



Thank You!
(Questions?)